

United States District Court
District of Massachusetts

)
David Howe,)
)
)
Plaintiff,)
)
)
v.) Civil Action No.
)
) 19-12597-NMG

U.S. Bank National Association)
as Trustee for the RMAC Trust)
Series 2016-CTT, Rushmore Loan)
Management Services LLC,)

Defendants.

MEMORANDUM & ORDER

GORTON, J.

This motion to dismiss arises from the scheduled foreclosure sale by defendants U.S. Bank National Association, as Trustee for the RMAC Trust Series 2016-CTT ("U.S. Bank Trust") and Rushmore Loan Management Services LLC ("Rushmore") (collectively "defendants") of the property at 12 Stuart Street, Sudbury, Massachusetts ("the Property") owned by plaintiff David Howe ("Howe" or "Plaintiff").

The Property is subject to a mortgage which is serviced by Rushmore and held by U.S. Bank Trust. Howe has failed to make payments on that mortgage for over five years and defendants have sought to foreclose multiple times. Howe has repeatedly filed lawsuits and declared bankruptcy in an effort to prevent

defendants from effectuating a foreclosure sale. The facts of this case have been extensively recited by this Court when it denied plaintiff's motion for a preliminary injunction. See Docket No. 34.

As articulated by the defendants: (1) the U.S Bank Trust has standing to foreclose on the Property; (2) the Plaintiff is estopped from arguing that the U.S Bank Trust does not have standing; (3) the Plaintiff lacks standing to challenge the validity of the assignment; (4) the U.S Bank Trust is in possession of the original note and allonges; (5) the Defendants have complied with applicable state and federal law and (6) the Plaintiff has presented no meritorious reasons for a declaratory judgment preventing the U.S Bank Trust from foreclosing.

ORDER

Defendants' motion to dismiss (Docket No. 11) is **ALLOWED** and plaintiff's complaint is **DISMISSED with prejudice**.

So ordered.



Nathaniel M. Gorton
United States District Judge

Dated July 16, 2020